

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Steinberg/John A. Perez, et al. Analyst: Angela Raygoza Bill Number: SB 657
Related Bills: See Legislative History Telephone: 845-7814 Amended Date: August 20, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Provide AG With Company Name & California Identification Numbers For Retailers & Manufacturers With Gross Receipts Over \$100 Million

SUMMARY

This bill would require the Franchise Tax Board (FTB) to make available to the Attorney General (AG) a list of retail sellers and manufacturers with gross receipts exceeding \$100 million.

SUMMARY OF AMENDMENTS

The August 20, 2010, amendments added a provision that would require the FTB to provide a list of retail sellers and manufacturers to the AG. The amendments would also provide definitions and add coauthors.

This analysis addresses sections of the Civil Code only as they pertain to the FTB.

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide consumers with easily accessible information about the voluntary efforts of businesses to eradicate slavery and human trafficking that could be in their product supply chains.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2011, and specifically operative January 1, 2012, for retailer sellers and manufacturers to disclose their efforts to eradicate slavery and human trafficking. The provision requiring the FTB to make available to the AG a list of retail sellers and manufacturers would be operative for original returns filed for taxable years beginning on or after January 1, 2011.

POSITION

Pending.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	<u> X </u> PENDING

Department Director

Date

Selvi Stanislaus

08/30/10

ANALYSIS

FEDERAL/STATE LAW

Current federal and state law provides that tax returns and tax information are confidential and may not be disclosed unless authorized specifically by statute. Any FTB employee or member responsible for the improper disclosure of federal or state tax information is subject to criminal prosecution. Improper disclosure of federal tax information is punishable as a felony and improper disclosure of state tax information is punishable as a misdemeanor.

Current state law permits disclosure of tax return information to other state and local tax agencies, the Multistate Tax Commission, and tax officials from other states and Mexico. All exchanges of tax information with these entities carry strict confidentiality rules and are prohibited from being released to the public, unless authorized by statute.

Current state law allows the FTB to disclose, among other things, the business entity name, address, and business entity account number.

THIS BILL

This bill would require the FTB to annually make available to the AG a list of retail sellers and manufacturers with worldwide gross receipts that exceed \$100 million. The list would first be submitted to the AG by November 30, 2012, and each November 30 thereafter.

The list would be based on income tax returns filed for taxable years beginning on or after January 1, 2011, and derived from original tax returns received by the FTB on or before December 31, 2011, and each December 31 thereafter.

The list would be required to include the entity name and California identification number.

This bill defines the following:

- “Doing business in this state” has the same meaning as set for in the Revenue and Taxation Code (RTC) section 23101.¹
- “Gross Receipts” has the same meaning as set forth in RTC section 25120.²
- “Manufacturer” means a business entity with manufacturing as its principal business activity code, as reported on the entity’s tax return.
- “Retail Seller” means a business entity with retail trade as its principal business activity code, as reported on the entity’s tax return.

LEGISLATIVE HISTORY

AB 2230 (Calderon, 2009/2010) would require the FTB to post specified information on the 100 largest publicly traded corporations on the FTB’s public Web site. This bill failed passage out of the Assembly.

¹ RTC section 23101—defines “doing business” in this state.

² RTC section 25120--- defines “gross receipts.”

SB 920 (Oropeza, Stats. 2007, Ch. 666) authorizes the FTB to disclose specified information from business entity returns to the State Controller's Office (SCO) for use in SCO's administration of the Unclaimed Property Law.

FISCAL IMPACT

The department estimates it would have a one-time cost of \$49,000 (1/2 PY) to extract and electronically transmit the data to the AG. On-going costs would be \$48,000 (1/2 PY) to maintain and update the list. Due to the current fiscal environment and the need for increased resources necessary to implement this and other pending bills, implementation of this bill could be delayed without funding. If this bill is enacted without appropriation language, the department will pursue a budget augmentation ("legislative budget change proposal") through the normal budgetary process.

ECONOMIC IMPACT

Revenue Estimate

This bill would not impact the state's income tax revenues.

LEGISLATIVE STAFF CONTACT

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